

This is a redacted version of the original decision. Select details have been removed from the decision to preserve the anonymity of the student. The redactions do not affect the substance of the document.

**Pennsylvania Special Education Due Process Hearing Officer
Final Decision and Order**

CLOSED HEARING

ODR No. 29653-23-24

Child's Name:

S.M.R

Date of Birth:

[redacted]

Parent:

[redacted]

Counsel for Parent:

Brandi Suter Esq.
Extraordinary Law, PO Box 291,
Ingomar, PA 15127

Local Education Agency:

South Park School District
South Park, PA 15129

Counsel for the LEA:

Patricia Andrews, Esq.
1500 Ardmore Boulevard,
Suite 506, Pittsburgh, PA 15221

Hearing Officer:

Charles W. Jelley Esq.

Date of Decision:

12/1/2024

INTRODUCTION AND PROCEDURAL BACKGROUND

The Parents of a school-aged Student initiated the present due process Complaint on May 1, 2024, alleging that the District discriminated and acted with deliberate indifference in violation of Section 504 of the Rehabilitation Act to the Student's circumstances. The Complaint next alleges that the District failed to fulfill its child-find obligations by not locating, identifying, evaluating, and providing the Student with a free appropriate public education (FAPE) as required under Section 504 and its state counterpart, 22 Pa. Code Chapter 15 (Chapter 15). Additionally, the Complaint alleges violations of the Individuals with Disabilities Education Act (IDEA) child find and FAPE requirements. 20 USC § 1401 *et seq.*, and its implementing federal and state regulations.

The Parents seek compensatory education to address the alleged denial of FAPE during two distinct periods: first, from January 1, 2021, through December 1, 2022, and second, for alleged deficiencies in extended school year (ESY) services offered during the 2022-2023 and 2023-2024 school years.¹ The District, in response, seeks a declaratory ruling that the claims pertaining to the period from January 2021 to December 2022 are untimely. Furthermore, the District asserts that it complied with all applicable requirements under both Section 504 and the IDEA during the relevant period. Lastly, the District contends that the claims regarding the adequacy

¹ The Parents claims arise under Section 504 of the Rehabilitation Act and 22 Pa. Code Chapter 15. The federal regulations implementing Section 504 are codified at 34 CFR §104.101 *et seq.* The claims also arising under the Individuals with Disabilities Education Act, 20 USC §1401, *et seq.* The Decision Due Date was extended for a good cause, upon written motion of the Parties. References to the record throughout this decision will be to the Notes of Testimony (N.T.), Parent Exhibits (P-) followed by the exhibit number, School District Exhibits (S-) followed by the exhibit number, and Hearing Officer Exhibits (HO-) followed by the exhibit number.

of the extended school year (ESY) services are legally insufficient.² I now find in favor of the Parents and against the District.

THE DISTRICT'S MOTION TO LIMIT THE SCOPE OF THE CLAIMS

The Parties entered into a tolling agreement effective October 19, 2023. On May 1, 2024, the Parents filed the present Complaint, alleging that the District failed to identify the Student as a person in need of special education services under the IDEA and Section 504. On May 10, 2024, the District filed its Answer to the Complaint, denying any violations of the IDEA or Section 504 and raising the statute of limitations as a defense against all claims predating two years prior to the execution of the October 19, 2023 tolling agreement. The Parents, however, invoke the discovery rule, asserting that the IDEA's "knew or should have known" (KOSHK) date is October 22, 2022, when they received the District's evaluation report identifying the Student as eligible for services under the IDEA.

THE ONE-DAY HEARING

A one-day hearing was conducted on August 15, 2024. The Parents presented three witnesses: the Mother, the guidance counselor, and the school psychologist, all of whom were examined by the District. Before the next scheduled hearing, the parties conferred and agreed that additional hearing dates were unnecessary. At their joint request, which this Hearing Officer approved, the case proceeded based on the existing record. The Parents raised objections to several of the District's exhibits, but those objections were overruled. Both parties submitted written closing statements on November 15, 2024. The record consists of the transcript from the one-

² After carefully considering the entire testimonial record, including the non-testimonial, extrinsic evidence in the record, in its entirety, I now find that a preponderance of evidence exists that will enable me to draw reasonable inferences, make Findings of Fact and Conclusions of Law. Consequently, I do not reference portions of the evidentiary record that are not relevant to the ultimate factual or legal issues in dispute.

day hearing, along with all exhibits submitted by both the Parents and the District.³

STATEMENT OF THE ISSUES

1. Did the District fail to locate, identify, evaluate, and offer the Student a Section 504 or an IDEA FAPE from January 2021 through December 2022; if not, is the Student entitled to appropriate relief in the form of compensatory education?
2. Did the District fail to offer the Student appropriate ESY Section 504 FAPE or IDEA FAPE services during the summer months of the 2022-2023 and the 2023-2024 school year; if not, is the Student entitled to appropriate relief in the form of compensatory education?
3. Are any of the Student's IDEA or Section 504 claims barred by the applicable statute two-year statute of limitations?
4. Did the District intentionally discriminate against the Student in violation of Section 504 from January 2021 through December 2022? If the answer is yes, what, if any, relief is appropriate? (NT pp.15-30).

FINDINGS OF FACT

1. **February 18, 2019:** The Student experienced significant behavioral changes and, through subsequent medical evaluations, was diagnosed with [redacted]. [Redacted] results in severe symptoms of anxiety and OCD, compounded by intracranial swelling that further impacts the Student's daily functioning. (NT p.158-159).⁴

⁴ [redacted]

2. **March 14, 2019:** The Parents submitted a request for homebound instruction signed by the Student's physician. The physician concluded that the Student was a person with obsessive-compulsive disorder. The District rejected the request and directed the Parents to have the Student's attending psychiatrist resubmit the request. The resubmitted request states as follows: in Box II, the psychiatrist stated, "I certify the above-named Student to have the following disability: 1. Obsessive Compulsive Disorder. Diagnosis (state specifically uses standard nomenclature): Obsessive Compulsive Disorder and Anxiety Disorder. Prognosis was listed as Fair, noting the occurrence of panic attacks." (J-1).
3. The form next states that
- "Since the Homebound Instruction Program Annual Report must be submitted to the Special Education Program of the IU [Intermediate Unit], this form is recommended to be used by the district to have the necessary information readily available to complete the yearly report (DEBE 146). Proper verification for certain disabilities such as pregnancy and school phobia (see second and the second and third paragraphs above) requires a more specific diagnosis, and this specific information should be copied on the state form. Make sure the district's portion of the form is completed before sending it to the parent or physician, particularly the second blank of item V. Finally, it might be wise to put on the form the name of the district person in case the physician has some questions. Note: Since all subsidies are subject to state audit, this form should remain in the district." (J-1)
4. **October 2019:** The Student attempted in-person school at the start of the 2019-2020 school year but was unable to continue due to worsening [redacted] symptoms. The district transferred the Student to its cyber program without convening a meeting or suggesting additional support (NT p.168-170). The District's cyber program included synchronous and asynchronous instruction. *Id.*

5. **2019-2020 School Year:** The remained on cyber instruction throughout the school year, including the COVID-19 pandemic shutdown (NT p.169-170).
6. **2020-2021 School Year:** When schools reopened in the fall of 2020, the district offered in-person, virtual, or hybrid instruction options during 2020-2021 school year. The Student remained in the cyber program for [redacted] grade, struggling with participation in live instruction; however, due to anxiety, the Student was often off-camera during online classes (NT p.34-37, 171).
7. **March 15, 2021:** Due to the Student's worsening impairments related to anxiety, OCD, and [redacted], acting on the physician's advice, the Parents formally requested a Section 504 Plan. (P-2)
8. **March 17, 2021:** Parents provided the district with a formal medical diagnosis regarding the [redacted] diagnosis from the Student's Pediatric Rheumatologist (P-3, p.2). The attending physician issued a note recommending homebound instruction. *Id.*
9. **March 24, 2021:** The District issued the first Section 504 Agreement without input from district teaching staff. The Service Agreement was developed over the phone with input from the Mother and the guidance counselor (NT p.90, 95, 174).
10. The 504 Agreement included the following accommodations:
 - a. **Late or Absent:** The Student may be late or absent if experiencing symptoms.
 - b. **Excused Absences:** Tardiness or absence due to [redacted] symptoms will be excused absences.
 - c. **Early Dismissals:** Early dismissals may be necessary for physician appointments.

d. **Additional Time for Tests and Assignments:** The Student may have additional time for tests and assignments when missing class due to [redacted], within reason, as needed. J-2.

11. **April 2021:** Parents alerted teachers to the Student's persistent difficulties in engaging in online instruction due to [redacted], anxiety, and OCD (NT p.178-180).
12. **August 19, 2021:** Parents confirmed the Student's enrollment in the district, but the District did not respond or discuss revising the Student's 504 Agreement or support needs (NT p.183-185). Rather than provide the cyber school instruction directly, the District used a third-party vendor, Waterfront Learning, to provide asynchronous instruction. No evaluation or reevaluation was completed prior to the change in placement. Previously, the District's cyber program included synchronous and asynchronous instruction. Throughout [redacted] grade, the Student relied on substantial parental support in the home to participate in online instruction and complete school work (NT p.50-52, 183).
13. On **May 10, 2022**, Parents forwarded a letter from the attending physician requesting that the Student be medically excused from the rest of the school year as the Student was undergoing intense treatment at the outpatient treatment. According to the letter, part of this treatment would include working on being able to tolerate discussions of school and noted that Student was unable to even hear the word "school." The letter concluded by stating, "[a]s [redacted] has been able to complete three quarters of the school year, we ask that you pass [redacted] to the next grade and excuse [redacted] from the rest of this year. Our hope is that this will help [redacted] be able to focus on [redacted] treatment and return to full functioning." (P-5). The District acquiesced, and the Student was promoted with the benefit of a team meeting.

14. The **May 10, 2022**, email also requested a full psychological evaluation to determine if the Student was IDEA eligible (P- 5, p. 1). Three days later, on May 13, 2022, the District issued a permission to evaluate (PTE) was issued. (P-13). Parents did not sign and return the PTE until August 8, 2022. *Id.*
15. **September 6, 2022**: Due to the Student's multiple impairments, the Student's physician recommended a specialized, "nontraditional" IDEA evaluation, whereby the team would not meet, observe, or test the Student's intellectual ability or achievement. The Parent and the District agreed to the nontraditional evaluation. The Mother and the Student did, however, complete a behavioral checklist. While the teachers did not complete the checklists, the Mother and the Student did complete the forms (J-4).
16. **September 13, 2022**: The district issued a revised Section 504 Plan incorporating new recommendations from the Student's behavioral health clinical team and medical team. The District acquiesced, and the Section 504 Agreement changes were made via email without a formal meeting (NT p.188-189).
17. **September 22, 2021**: The provider of asynchronous cyber learning at the Waterfront Learning program contacted the district to discuss additional support for the Student. The District did not respond, even after a follow-up email on September 27, 2021 (P-4).
18. **October 21, 2021**: The District updated the Student's Section 504 Plan to include accommodations such as excused absences, assignment flexibility, and permission to turn off the camera during live sessions. This revision occurred without a team meeting or discussion (NT p.54, 188-189). These above changes indicate further changes in attention, focus, completion of work, anxiety, and task completion, along with a decline in social, emotional, and behavioral health. *Id.*

19. **October 28, 2022:** The District issued an Evaluation Report identifying the Student as eligible for special education under the category of Emotional Disturbance (J-4). The Parents agreed with the identification. *Id.* As per the physician's recommendation, the evaluation did not include any standardized testing. While the Mother and the Student completed behavioral rating scales, the teachers did not. The testimony corroborates the statements in the report that because the teachers never saw or interacted with the Student in Cyber school, the evaluation did not include teacher input. Since the teachers did not fill out the social, emotional, and behavioral rating scales, the usefulness of checklist rankings is contrary to the test maker's instruction. (J-4).
20. **November 30, 2022:** The district issued the Student's first Individualized Education Program (IEP), which focused on building educational stamina and maintaining academic progress, including monthly psychological and social work services (J-6).
21. **February 24, 2023:** The district issued a Notice of Recommended Educational Placement (NOREP) denying ESY services. The action was taken without benefit of a meeting or discussion regarding the 22 PA Code Chapter 14.132 requirements regarding ESY eligibility. Parents signed and returned the NOREP, accepting the District's decision. (J-6; NT p.202).
22. **October 19, 2023:** The parties entered into a tolling agreement. (NT p.13).
23. **May 1, 2024:** The Parents filed a due process complaint under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973, alleging denial of Free Appropriate Public Education (FAPE) and child find violations from January 2021 through December 2022 and failure to provide Extended School Year (ESY) services for the summer of 2023.

GENERAL LEGAL PRINCIPLES

BURDEN OF PROOF AND WITNESS CREDIBILITY

Generally, the burden of proof consists of two elements: the burden of production and the burden of persuasion. In special education due process hearings, the burden of persuasion lies with the party seeking relief. The party seeking relief must prove entitlement to its demand by preponderant evidence and cannot prevail if the evidence rests in equipoise. In this case, the Parents are the party seeking relief and must bear the burden of persuasion.⁵ During a due process hearing, the hearing officer makes "express, qualitative determinations regarding the relative credibility and persuasiveness of the witnesses."⁶ Explicit credibility determinations give courts the information that they need in the event of a judicial review. While no one-factor controls, a combination of factors causes me to pause and comment on particular testimony.

On the Parents' side, I found the Mother open, thoughtful, and candid in acknowledging who she spoke with, what she learned from each event, and what she did not learn – discover- about the Student's circumstances. I found the testimony of the psychologist and the guidance counselor, while candid, incomplete. Since the staff has not observed, taught, or interacted with the Student roughly since 2019, I will give their opinion testimony about the Student's online classroom performance little weight. At the same time, I will give little weight to their testimony about the appropriateness of the Student's program.

⁵ *Schaffer v. Weast*, 546 U.S. 49, 62 (2005); *L.E. v. Ramsey Board of Education*, 435 F.3d 384, 392 (3d Cir. 2006). *L.E. v. Ramsey Board of Education*, 435 F.3d 384, 392 (3d Cir. 2006). Accordingly, the burden of persuasion rests with the Parent, who requested this hearing, while the burden of production rests with the District. In IDEA disputes, the hearing officer applies a preponderance of proof standard.

⁶ *Blount v. Lancaster-Lebanon Intermediate Unit*, 2003 LEXIS 21639 at *28 (2003).

THE IDEA ELIGIBILITY DECISION-MAKING RULES

Special education means "specially-designed instruction," which requires the district to adopt "the content, methodology, or delivery of instruction."

Specially designed instruction must "address the unique needs of the child that result from the child's disability." Finally, specially designed instruction must "ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children."⁷

IDEA eligibility decision-making requires a two-step analysis. First, the team must determine if the alleged disability meets one or more of thirteen (13) disability categories. Second, the team must determine if, as a result of the disability, the child's educational performance is adversely affected such that the child requires specially designed instruction. 34 CFR § 300.8(a) (1)

THE DISTRICT'S DUTY TO LOCATE, EVALUATE, AND IDENTIFY DISABLED STUDENTS

Districts have a "continuing obligation ... to identify and evaluate all students who are reasonably suspected of having a disability under the statute." Even if parents do not cooperate fully with a district's efforts to identify a student, districts still have a responsibility to identify students who need IDEA protections.⁸ The IDEA "child find" duty" does not require schools to evaluate every struggling Student formally.⁹ A school's failure to identify a disability at the earliest possible moment is not, per se, actionable. *Id.* However, once school districts have a "reasonable suspicion" that the

⁷ 34 CFR § 300.39(b)(3).

⁸ *Ridley Sch. Dist. v. M.R.*, 680 F.3d 260, 271 (3d Cir. 2012) (citing *P.P. v. West Chester Area School District*, 585 F.3d 727, 738 (3d Cir. 2009)), 20 USC § 1412(a)(3)(A), 34 CFR § 300.111(a), (c), *Taylor*, 737 F. Supp. at 484.

⁹ *D.K. v. Abington Sch. Dist.*, 696 F.3d 233, 249 (3d Cir. 2012).

Student is otherwise IDEA eligible, the district must fulfill its child find obligation within a reasonable time frame. *Id.*

Once on notice, the failure to conduct a sufficiently comprehensive evaluation can be either a procedural or substantive violation. Substantively, child find begins when the school district reasonably suspects that the child may be eligible under the IDEA. Once the child find duty is triggered, the district must initiate a comprehensive evaluation of the child within a reasonable time. Therefore, to avoid a substantive violation, an evaluation must be sufficiently comprehensive to assess all of the child's suspected disabilities.¹⁰

THE ELEMENTS OF THE DISTRICT'S COMPREHENSIVE ASSESSMENT

The IDEA sets forth three broad criteria that the local educational agency must meet when evaluating a child's eligibility for services under the IDEA. First, the child's evaluators must "review existing evaluation data on the child," including any evaluations and information provided by the child's parents, current assessments, classroom-based observations, and additional observations by teachers and other service providers.¹¹ Second, based on their review of that existing data, the evaluation team must "identify what additional data, *i.e.*, testing, ratings, rankings or assessments, if any, are needed to determine if the child has a qualifying disability in a timely fashion."¹²

Evaluators must "use a variety of assessment tools and strategies" to determine whether the Student is a person with a disability. Districts may "not use any single measure or assessment as the sole criterion" for determining whether the child is a person with a disability or if the Student

¹⁰ 20 USC § 1414(b)(3)(B), 34 CFR § 300.304(c)(4), (6).

¹¹ 34 CFR § 300.305(a)(1).

¹² 34 CFR § 300.305(a)(2)(c).

needs specially designed instruction.¹³ Districts must "use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors."¹⁴

A comprehensive evaluation must ensure the child is "assessed in all areas of suspected disability." At the same time, it does not have to identify and diagnose every possible disability.¹⁵ Finally, the evaluation must be "sufficiently comprehensive to identify all the child's special education and related service needs, whether or not commonly linked to the disability category in which the child has been classified."¹⁶

IDEA FAPE INCLUDES A WRITTEN INDIVIDUAL EDUCATION PROGRAM

In *Board of Education of Hendrick Hudson Central School District v. Rowley*, 458 U.S. 176 (1982), the Court held that provided the procedures outlined in the Act are followed, the IDEA's FAPE requirement is met when districts provide personalized instruction and support services that are reasonably calculated to permit meaningful benefit. The Third Circuit applying *Rowley* has interpreted the phrase "free appropriate public education" to require "significant learning" and "meaningful benefit."¹⁷ Districts meet the obligation of providing IDEA FAPE to eligible students through the development and implementation of an IEP that is "'reasonably calculated to enable the child to receive 'meaningful educational benefits in light of the student's 'intellectual potential.'"¹⁸ Recently, the Supreme Court, discussing the *Rowley* standard, stated that an IEP "is constructed only after careful

¹³ 20 USC § 1414(b)(2)(B).

¹⁴ 20 USC § 1414(b)(2)(C).

¹⁵ *D.K.*, 696 F.3d at 250 (3d Cir. 2012) (quoting 20 USC § 1414(b)(3)(B), 34 CFR § 300.304(c)(4).

¹⁶ 34 CFR § 300.304(c)(6).

¹⁷ *Ridgewood Board of Education v. N.E.*, 172 F.3d 238, 247 (3d Cir. 1999).

¹⁸ *Mary Courtney T. v. School District of Philadelphia*, 575 F.3d 235, 240 (3d Cir. 2009).

consideration of the child's present levels of achievement, disability, and potential for growth."¹⁹

Endrew, Rowley, and the IDEA clearly state that IEPs must be responsive to the child's identified educational needs. The *Endrew* court also commented that "the IDEA demands [that]... an educational program be reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." At the same time, school districts are not required to provide the "best" program but one that is procedurally and substantively appropriate in light of a child's unique circumstances. *Id.* Case law further provides that the appropriateness of an IEP is judged "as of the time it is offered to the student, and not at some later date," this holding is otherwise known as the "snapshot" rule.²⁰

An IEP sets out a comprehensive, personalized program prepared by a child's "IEP Team," which includes teachers, school officials, the local education agency (LEA) representative, and the child's parents.²¹ An IEP must contain, among other things, "a statement of the child's present levels of academic achievement," "a statement of measurable annual goals," and "a statement of the special education and related services to be provided to the child." *Id.*²²

CASE LAW ENDORSES TWO FORMS OF IDEA VIOLATIONS

A school district may violate the IDEA in several ways. "First, a school district, in creating and implementing an IEP, can run afoul of the Act's procedural requirements."²³ "Second, a school district can be liable for a

¹⁹ *Endrew F. v. Douglas County School District RE-1*, ___ U.S. ___, ___, 137 S. Ct. 988, 999, 197 L.Ed.2d 335, 350 (2017).

²⁰ *Fuhrmann v. East Hanover Board of Education*, 993 F.2d 1031, 1040 (3d Cir. 1993).

²¹ 20 USC § 1414(d)(1)(B).

²² 20 USC §§ 1401(26), (29).

²³ *Rowley*, 458 U.S. at 206).

substantive violation by drafting an IEP that is not reasonably calculated to enable the child to receive educational benefits."²⁴

Generally, not all procedural violations amount to a denial of a FAPE. A procedural violation constitutes a denial of a FAPE where it "results in the loss of an educational opportunity, seriously infringes the parents' opportunity to participate in the IEP formulation process or causes a deprivation of educational benefits. A procedural violation occurs when a district fails to abide by the IDEA's procedural safeguards requirements.

A substantive violation occurs when an IEP is not "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Id.*

SECTION 504 CHILD FIND AND ELIGIBILITY RULES

While the IDEA, for the most part, follows a two-step eligibility process limited to thirteen (13) disabilities. Section 504, the scope of coverage is much broader.²⁵ Section 504 regulations do not include a defined list of disabilities or impairments.²⁶ Instead, Section 504 eligibility arises when, after an evaluation, the team concludes that the child has a "physical or mental impairment" that "substantially limits" one or "more major life

²⁴ *Fresno Unified*, 626 F.3d at 432 (citing *Rowley*, 458 U.S. at 206-07).

²⁵ 34 CFR § 104.3(j)(2)(ii), *Dear Colleague Letter*, 58 IDELR 79 (OCR 2012) (reminding districts that they must interpret the definition of a "disability" liberally when evaluating a student's Section 504 eligibility). See also *Protecting Students with Disabilities: Frequently Asked Questions About Section 504 and the Educ. of Children with Disabilities*, 67 IDELR 189 (OCR 2015), and *Palo Verde (CA) Unified Sch. Dist.*, 56 IDELR 177 (OCR 2010) (noting that the determination of whether an impairment substantially limits a major life activity must be made without regard to the ameliorative effects of mitigating measures such as medication).

²⁶ OCR has commented that it would enforce the Section 504 regulations in a manner consistent with the ADA Amendments Act of 2008 (ADAAA). *Protecting Students With Disabilities: Frequently Asked Questions About Section 504 and the Educ. of Children with Disabilities*, 67 IDELR 189 (OCR 2015). See also, *Snowflake (AZ) Unified Sch. Dist.*, 102 LRP 38676 (OCR 03/24/98).

activities."²⁷ The Americans with Disabilities Act (ADA) amendments and regulations are often relied on to interpret Section 504 eligibility.²⁸

The ADA describes a "physical or mental impairment" as "Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin and endocrine; or any mental or psychological disorder, such as organic brain syndrome, emotional or mental illness, and specific learning disabilities." ²⁹

The term "substantially limits," while not defined by Section 504, is described in ADA Title II regulations. A determination of a "substantial limitation" includes a review of three factors: 1) the nature and severity of the impairment; 2) the duration or expected duration of the impairment; and 3) the permanent, long-term impact or expected impact of the impairment.³⁰ Nonetheless, not every impairment will constitute a disability.³¹ Stated another way, the criteria for determining eligibility under Section 504 is broader, or some might say more inclusive, while the IDEA is limited to thirteen (13) defined classes of disability.³²

²⁷ 34 CFR §104.36-evaluation process, 34 CFR §104.3 - definitions.

²⁸ The ADAAA amended the Rehabilitation Act's definition of disability to conform it to that of the ADA. 28 CFR 35.108 (a)(1). See, 42 USC §12102 (D). See also *Protecting Students With Disabilities: Frequently Asked Questions About Section 504 and the Educ. of Children with Disabilities*, 67 IDELR 189 (OCR 2015) and *Protecting Students With Disabilities: Frequently Asked Questions About Section 504 and the Educ. of Children with Disabilities*, 67 IDELR 189 (OCR 2016)..

²⁹ 34 CFR §104.3 (j)(2)(i).

³⁰ The Title II implementing regulations include extensive list of "rules of construction" that spell out how the District must use to determine whether an impairment substantially limits an individual in a major life activity. 81 Fed. Reg. 53,229 (2016), 28 CFR §35.108 (d)(1).

³¹ 28 CFR §28.108 (d)(1)(v).

³² *L. G. v. West Chester Area Sch. Dist.*, 60 IDELR 4 (E.D. Pa. 2012) *Yankton Sch. Dist. v. Schramm*, 24 IDELR 704 (8th Cir. 1996), reh'g en banc denied, 112 LRP 18821 (8th Cir. 10/01/96). See also *Chicago Sch. Dist. 299*, 54 IDELR 304 (SEA IL 2010) (finding that an Illinois school district denied FAPE to a sixth grader when it decided that a 504 plan was "sufficient" and an IEP would be "too intrusive"), and *Granite Sch. Dist.*, 122 LRP 10083 (SEA UT 12/07/21) (finding that because assessment data did not support removing the student

THE SCOPE OF FAPE OFFERED UNDER SECTION 504 DIFFERS FROM THE SCOPE OF IDEA FAPE SERVICES

When students are dually eligible under the IDEA and Section 504, the IDEA and Section 504 provide similar causes of action. For dually eligible students, the same conduct is often used to form the basis for the IDEA claims that can be used to bring claims under Section 504. However, procedural rights and remedies differ for only eligible students under Section 504.

Section 504's regulations require that districts "provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction, regardless of the nature or severity of the person's handicap."³³ Unlike the IDEA, the Section 504 regulations define a free appropriate public education as the provision of both regular or special education and related aids and services that (1) Are designed to meet the individual educational needs of disabled persons as adequately as the needs of non-handicapped persons are met under 34 CFR 104.33 (2). Are based upon adherence to procedures that satisfy the requirements of 34 CFR 104.34 - educational setting; evaluation and placement decisions must comply with 34 CFR 104.35, and any (3) disagreements over offered services are subject to the procedural safeguards found at 34 CFR 104.36.³⁴ For Section 504 eligible only students, the Third Circuit stated in *Ridley Sch. Dist. v. M.R.*, 680 F.3d 260, 280 (3d Cir. 2012) that fact finders must apply a "reasonable accommodation. *Id.* The *Ridley* court further held that Section

from special education, the district may have denied the student FAPE by changing IEP into a Section 504 plan).

³³ 34 CFR §104.32.

³⁴ *C.G. v. Commonwealth of Pennsylvania Dep't of Educ.*, 62 IDELR 41(3d Cir. 2013). FAPE under the IDEA is an affirmative duty to provide an appropriate program of personalized accommodations or modifications that are comparable to and as equally effective as to the offer of benefits provided to others. Some courts describe FAPE under Section 504 as a negative prohibition against failing to provide an equal opportunity to access the same benefits as non-disabled peers.

504 "accommodation" must offer the opportunity for "significant learning" and "meaningful benefit."³⁵ Courts within this Circuit have also rejected assertions that litigants in Section 504 FAPE disputes must establish more than a denial of a FAPE.³⁶

REMEDIES AND APPROPRIATE RELIEF

The same remedies available under the IDEA are generally available under Section 504. Therefore, courts and hearing officers may award compensatory education and reimbursement as a remedy for alleged Section 504 and IDEA violations.³⁷

ANALYSIS AND CONCLUSIONS

First, I will complete a knew or should have known statute of limitations analysis. Second, I will decide the Parent's IDEA and Section 504 child find and FAPE claims. Third, I will consider the Parents' request for appropriate relief. Fourth, I now find that all claims for intentional discrimination under Section 504 or the Americans with Disabilities Act, seeking legal relief, are beyond my limited jurisdiction, as legal remedies for these claims are

³⁵ *K.K. ex rel. L.K. v. Pittsburgh Pub. Sch.*, 590 F. App'x 148, 154 (3d Cir. 2014)(not precedential), *T.F. v. Fox Chapel Area Sch. Dist.*, 589 F. App'x 594, 600 (3d Cir. 2014), and *D.S. v. Bayonne Bd. of Educ.*, 602 F.3d 553, 565 (3d Cir. 2010), *T.R. v. Kingwood Twp. Bd. of Educ.*, 205 F.3d 572, 577 (3d Cir. 2000), and *D.S. v. Bayonne Bd. of Educ.*, 602 F.3d 553, 565 (3d Cir. 2010).

³⁶ *Centennial Sch. Dist. v. Phil L. ex rel. Matthew L.*, 799 F. Supp. 2d 473, 488, 489 n.10 (E.D. Pa. 2011) (rejecting the argument that to prevail under Section 504, a plaintiff must prove not only a denial of a FAPE but also that the denial was "solely on the basis of disability"); *Neena S. ex rel. Robert S. v. Sch. Dist. of Philadelphia*, 2008 U.S. Dist. LEXIS 102841, 2008 WL 5273546 (E.D. Pa. Dec. 19, 2008).

³⁷ See, e.g., *Easter v. District of Columbia*, 66 IDELR 62 (D.D.C. 2015) (allowing a 22-year-old student to seek compensatory education based on the District of Columbia's alleged failure to make special education services available after his release from a juvenile detention facility); *Horton v. Boone County Sch. Dist.*, 62 IDELR 25 (E.D. Ky. 2013) (noting that a former student with ADD could seek compensatory education for his allegedly deficient Section 504 services); See, also, *J.B. v. Avilla R-XIII Sch. Dist.*, 61 IDELR 153 (8th Cir. 2013) (holding that the parents' requests for compensatory education and reimbursement for special education expenses brought their Section 504 claim within the scope of the IDEA's exhaustion requirement).

enforced in courts of competent jurisdiction 20 USC § 1415(l). Therefore, all equitable or intentional discrimination claims seeking a finding of deliberate indifference are exhausted pursuant to 20 USC § 1415(l) and dismissed without prejudice.

THE DISTRICT'S STATUTE OF LIMITATION MOTION

The District asserts that the IDEA statute of limitations bars the Student's claims. Under the IDEA, parents must file a complaint within two years of the date they "knew or should have known" (KOSHK) of the alleged violation (20 USC §1415(b)(6)(B); §1415(f)(3)(C)). The Third Circuit's decision in *G.L. v. Ligonier Valley Sch. Dist. Auth.*, 802 F.3d 601 (3d Cir. 2015), clarified that the KOSHK date is the point at which the parent, through reasonable diligence, would have discovered sufficient facts to allege a violation. This "discovery rule" assessment is a fact-intensive review of when the parents were or reasonably should have been, aware of critical facts constituting the violation that forms a complete case. The term "action" under IDEA refers to a district's obligation to provide notice of any significant change or refusal to adjust services, which might indicate a violation. The term "violation" encompasses failures in identification, evaluation, placement, or provision of FAPE, as defined under 20 USC §1415(b)(3).

At times, a KOSHK analysis identifies "storm warnings." Storm warnings place the parent on "inquiry notice." Inquiry notice is the starting point for identifying objective signs alerting the parents to an alleged violation. *Cetel v. Kirwan Financial Group, Inc.*, 460 F.3d 494 (3d Cir. 2006), defines "inquiry notice" as the moment when a reasonable person would begin to investigate the facts further to determine the facts related to the action and the alleged violation, failing to do so could constitute a lack of diligence.

FINDINGS OF FACT AND APPLICATION OF THE DISCOVERY RULE

After examining the relevant events, the timeline, and the evidence, I now conclude that the Parents acted within the bounds of reasonable diligence in filing the Complaint in a timely fashion. Each key KOSHK fact and date is discussed below.

THE KNEW OR SHOULD HAVE KNOWN ANALYSIS

The District's suggestion that the knew or should have known day is October 19, 2021, two years after executing the Tolling Agreement, is flawed, as it conflates the discovery rule with an injury rule. The discovery rule, under IDEA, provides that a claim accrues—and the statute of limitations begins to run—when the parent, acting as a reasonable person, learns or should have learned of the District's alleged violation of their child's rights. In contrast, the injury rule, which the District seems to apply, by subtracting two years from the date of the Tolling Agreement would set the accrual date at any arbitrary, regardless of when the Parents actually learned of the action and the "alleged violation" which form a complete cause of action. The District's two-year counting back strategy contradicts the holding in *G.L. v. Ligonier Valley Sch. Dist. Auth.*, 802 F.3d 601 (3d Cir. 2015). *G.L.* holds that parents must exercise due diligence to discover the facts and determine if the harm suffered is attributed to the actions or inaction of another. This holding requires parents to actively seek out information and take necessary steps to protect their rights. *G.L.* also underscores the principle that the statute of limitations is not a cap on recovery. The facts lead me to conclude that the Parents acted in a reasonable and timely fashion.

Facts learned from or in tandem with "storm warnings" put the parents on inquiry notice to begin a reasonable period of due diligence in **May 2022**. On **May 10, 2022**, the Parents submitted medical correspondence recommending a special education evaluation and requested a

comprehensive special education evaluation. At the time of the request, the Student was diagnosed with Mixed Obsessional thought disorder and [redacted] and was subject to a Section 504 Agreement. The Parents also requested that the Student be excused from attendance for the last 12 weeks of the school year. This threshold date is the first time the Parents were placed on inquiry notice with sufficient substantive knowledge that the Student required other types of services. This series of events put the Parents in the position to make substantive inquiries to discover the extent of the injury and the alleged source of the violation.

Next, on or about **September 6, 2022**, the Student's physician provided additional recommendations for a "nontraditional" evaluation due to [student's] unique medical needs. Typically, comprehensive evaluations include face-to-face testing and direct observations of the Student. The physician's statement suggesting a "nontraditional" evaluation was another "storm warning." The **September 6, 2022**, communication provided further support that the Student's impairment was becoming a substantial impairment.

Then, on **September 13, 2022**, after reviewing the physician's input, the District agreed with the physician and issued a revised Section 504 Plan. The Section 504 Agreement changes were made via email without a formal meeting, assessment, or observation of the Student. The physician's input, coupled with the revision of the 504 Agreement, is further evidence that the Parents were acting diligently. On or about **October 28, 2022**, the District issued an evaluation report identifying the Student as eligible for special education under the category of Emotional Disturbance. This nontraditional evaluation incorporated checklist scores from both the Mother and the Student. The circumstances surrounding this "nontraditional" approach further delayed the discovery of the alleged violations, as the Parents were not provided with a comprehensive evaluation addressing the Student's full

range of needs and circumstances. The absence of such a comprehensive evaluation delayed the Parents' understanding of the nature and extent of the Student's challenges, prompting additional inquiry into the potential ongoing child find and FAPE violations. Subsequently, on or about **November 30, 2022**, the District issued the Student's first Individualized Education Program (IEP), which emphasized building educational stamina and maintaining academic progress while incorporating monthly psychological and social work services.

On or about **February 24, 2023**, the district issued a Notice of Recommended Educational Placement (NOREP) denying ESY services. The Parents signed and returned the NOREP, accepting the District's decision. Then, on or about **October 19, 2023**, the parties entered into a tolling agreement. The Tolling Agreement is the last date when the Parents either knew or should have known - discovered - the nexus between the alleged violation/injury and the District's actions or inactions.

Finally, on **May 1, 2024**, the parents filed a due process complaint alleging denial of a FAPE from January 2021 through December 2022, including the failure to provide Extended School Year (ESY) services for each summer at issue. Taken as a whole, I now conclude that **May 10, 2022**, the date when the Parents submitted medical correspondence recommending a special education evaluation and requested a comprehensive special education evaluation, is the knew or should have known date for the underlying child find and the alleged IDEA or Section 504 FAPE claims. The Complaint was filed on **May 1, 2024**, within two years of the knew or should have known date. Therefore, at all times relevant, the Parents acted with due diligence. Having found that the claims are timely, I will now move forward and analyze the procedural and substantive overlapping IDEA and Section 504 child find and FAPE claims.

CONCLUSION OF LAW AND ANALYSIS

The District Failed to Identify the Student for Section 504 Services

Section 504 of the Rehabilitation Act requires school districts to evaluate students suspected of having a disability when there is evidence that their impairments substantially limit one or more major life activities (34 CFR § 104.35(a); *Ridley Sch. Dist. v. M.R.*, 680 F.3d 260, 283 (3d Cir. 2012)). The duty to evaluate is triggered by the district's knowledge or reasonable suspicion of a disability (*P.P. v. West Chester Area Sch. Dist.*, 585 F.3d 727, 738 (3d Cir. 2009)). This includes academic struggles, medical diagnoses, or behavioral concerns reported by parents, school staff, or medical providers (*D.K. v. Abington Sch. Dist.*, 696 F.3d 233, 249 (3d Cir. 2012)).

The evidence establishes that as early as March 2019, and certainly by May 2022, the District was aware of the Student's diagnoses of Anxiety Disorder and Obsessive-Compulsive Disorder (OCD). The severity of these conditions required homebound instruction and rendered the Student unable to attend school regularly. This information, coupled with a subsequent diagnosis of [redacted], created a reasonable suspicion that a teacher or guidance counselor should have referred the Student for an evaluation. By October 2019, the Student's inability to attend in-person schooling escalated. Despite parental requests for alternative support, the District failed to initiate a Section 504 evaluation, instead opting for a transfer to a cyber program without addressing the Student's disability-related needs. The evidence further shows that during the 2020-2021 school year, the Student continued to struggle academically and emotionally in the cyber program. Teachers and staff were made aware of these difficulties, yet the District failed to evaluate the Student under Section 504 until March 2021.

Courts have consistently held that a district's child find obligations are triggered when there is evidence of prolonged academic struggles or a

known medical diagnosis affecting a student's education (*D.K.*, 696 F.3d at 249). The District's delay in evaluating the Student constitutes both a procedural and substantive violation of Section 504's child find requirements under 34 CFR § 104.35(a). I now conclude that the record is preponderant that by the fall of the 2021 school year, the District failed to take reasonable and timely action to assess and evaluate the Student.

THE DISTRICT FAILED TO PROVIDE A FAPE

Under Section 504, schools must provide students with disabilities a Free Appropriate Public Education, which includes accommodations and services designed to meet their needs as adequately as the needs of non-disabled students (34 CFR § 104.33(a); *Ridgewood Bd. of Educ. v. N.E.*, 172 F.3d 238, 253 (3d Cir. 1999)). This duty includes ensuring accommodations are consistently implemented and revisited as needed (34 CFR § 104.36). The Section 504 Agreement issued in March 2021 was procedurally flawed. It was developed during a phone meeting without meaningful input from the Student's teachers and included limited accommodations, such as extended time for assignments and excused absences. The accommodations offered were insufficient to address the Student's severe social-emotional needs, as evidenced by Parental reports of disengagement and ongoing struggles with asynchronous learning. The District's Section 504 Agreement failed to monitor the effectiveness or revise the accommodations in response to the Student's ever-changing circumstances. Despite clear signs, like the Student refusing to turn on the camera, the Mother's constant presence off to the side acting as the Student's one-on-one, along with the uptick in anxiety-related interfering behaviors, were red flags that the accommodations were inadequate. Courts have emphasized that the failure to implement and adapt accommodations constitutes a denial of FAPE under Section 504 (*Derrick F. v. Red Lion Area Sch. Dist.*, 586 F. Supp. 3d 96, 104 (M.D. Pa. 2022)). Here,

the District's lack of oversight, failure to involve critical stakeholders, and failure to adapt accommodations as the Student's needs evolved violate both procedural and substantive standards. The District's actions deprived the Student of meaningful access to education. Accordingly, I now find that the Section 504 Agreement was not reasonably calculated to provide equal access or meaningful benefit.

THE DISTRICT FAILED TO CONDUCT A REEVALUATION

Periodic reevaluations are a critical component of Section 504, ensuring that accommodations and services are responsive to a student's evolving needs (34 CFR § 104.35(d)). Reevaluations should involve input from educators, parents, and medical professionals, and they must be based on data relevant to the Student's educational performance and disability-related needs. Following the implementation of the Section 504 Plan in March 2021, the District conducted only one cursory revision in October 2021, completed via email without convening a meeting or gathering additional data. Despite the Student's continued disengagement and ongoing difficulty with asynchronous learning, no meaningful reevaluation occurred. Courts have consistently held that the failure to reevaluate a student's needs violates Section 504's procedural safeguards and denies substantive FAPE (*G.C. v. Wissahickon Sch. Dist.*, 952 F. Supp. 2d 671, 683 (E.D. Pa. 2013)). The District's inaction undermined its ability to address the Student's changing needs and violated its obligations under 34 CFR § 104.35(d).

THE FAILURE TO IDENTIFY THE STUDENT FOR IDEA SERVICES

The IDEA imposes an affirmative child find obligation, requiring districts to identify, locate, and evaluate students suspected of needing special education services (20 USC § 1412(a)(3); *D.K.*, 696 F.3d at 249). This obligation arises when there is reasonable suspicion that a student has a qualifying disability affecting their education. The evidence shows that by

March 2021, when the District revised the Section 504 Agreement, the Student exhibited significant medical and emotional challenges that adversely impacted the Student's ability to learn or access education. These challenges were well-documented through Parental reports, medical diagnoses, and observable difficulties reported to the District in the cyber program. Despite this clear evidence, the District failed to suspect IDEA eligibility until May 2022, some three years after initial indicators of the need for specially designed instruction. The Third Circuit has emphasized that delays in evaluating potentially eligible students under IDEA are procedural and substantive violations. (*P.P.*, 585 F.3d at 738). The District's delay deprived the Student of timely identification and access to special education services, violating IDEA's child find mandate. Accordingly, the record is preponderant that the District, though aware of the Student's impairments, failed to locate, identify, and evaluate the Student in a timely fashion.

THE OFFERED IEP WAS INADEQUATE

The IDEA requires that the Student's IEP must be tailored to the Student's unique circumstances and designed to provide meaningful progress (*Endrew F. v. Douglas Cty. Sch. Dist. RE-1*, 580 U.S. 386, 137 S. Ct. 988 (2017)). The IEP must also address all areas of suspected disability and include services reasonably calculated to enable significant learning (34 CFR § 300.304; *Ridley*, 680 F.3d at 269).

The District's October 2022 evaluation, which formed the basis of the Student's IEP, was procedurally and substantively deficient. It relied heavily on incomplete data, lacked direct teacher input, and omitted classroom observations. The evaluation failed to include a variety of assessments, an observation of the Student, and a positive behavior program to teach self-regulation. Instead, the resulting IEP provided only minimal psychological and social work services and failed to address critical needs, such as daily

engagement strategies and targeted academic interventions. Courts have held that evaluations must be comprehensive to develop effective IEPs (*M.L. v. Smith*, 867 F.3d 487, 493 (4th Cir. 2017)). The District's failure in this instance to conduct a thorough evaluation and its development of an inadequate IEP violated IDEA's FAPE requirements. While I understand the District followed the directions of the Student's private behavioral staff, the District should complete a comprehensive reevaluation. Since that did not happen, the subsequent IEP lacks a proper foundation to provide the Student with equal access to the regular education curriculum or enable significant learning and meaningful benefits.

THE DISTRICT FAILED TO COLLECT, ANALYZE, AND APPLY THE APPLICABLE ESY CRITERIA

Extended School Year (ESY) services are an essential component of FAPE under IDEA and Pennsylvania law when a student's disability-related needs require additional support to prevent regression (34 CFR § 300.106(a); 22 Pa. Code § 14.132). Pennsylvania regulations specifically require that the IEP team consider the following nine factors when determining a student's eligibility for ESY services under 22 Pa. Code § 14.132(a)(2). The District neglected to convene an IEP team meeting to address ESY eligibility, failed to review progress monitoring data, and did not collect or analyze data in alignment with the nine ESY required factors. *Id.* Specifically, the District failed to assess the Student's risk of significant regression and the likelihood that cyber instruction, absent targeted specially designed instruction for a Student with severe anxiety and OCD, would result in further regression and denial of FAPE.

Additionally, the District failed to address the Student's emerging skills deficits, interfering behaviors, and other unique circumstances related to their disability, like hiding from the camera and social regression, as

required by 22 Pa. Code § 14.132(a)(2). These procedural and substantive violations deprived the Student of a meaningful determination of ESY services. Accordingly, the District's ESY determination was procedurally and substantively insufficient under federal and state law.³⁸

APPROPRIATE RELIEF

The legal maxim "where there is a right, there is a remedy"—establishes a foundational principle that the law must provide redress for the violation of a legal right.³⁹ In the present case, the District's procedural and substantive violations of the IDEA and Section 504 of the Rehabilitation Act have resulted in the denial of a FAPE to the Student. Consequently, it falls upon this hearing officer to determine the appropriate remedial measures necessary to make the Student whole.

Guidance from jurisprudence, including *Reid v. District of Columbia*, 401 F.3d 516 (D.C. Cir. 2005), *G.L. v. Ligonier Valley School District Authority*, 802 F.3d 601 (3d Cir. 2015), and *M.C. v. Central Regional School District*, 81 F.3d 389 (3d Cir. 1996), underscores that remedies must be tailored to the individual needs of the Student in order to effectively address the educational deficits caused by such violations. However, in this matter, the evidentiary record is inadequate to support a determination of compensatory education. The limited testimony of only three witnesses, combined with the cancellation of the final evidentiary session, has resulted in a lack of

³⁸ See *M.M. v. Lafayette Sch. Dist.*, 767 F.3d 842 (9th Cir. 2014)(the school district violated the IDEA by failing to consider ESY services for a student with autism. The Court also emphasized the necessity of discussing ESY eligibility during the IEP meeting and remanded the case to determine appropriate remedies); *C. v. Klein Indep. Sch. Dist.*, 711 F. Supp. 2d 739 (S.D. Tex. 2010)(court ordered the district to provide compensatory education to address the educational deficits incurred due to the lack of ESY services.); *J.H. v. Henrico Cnty. Sch. Bd.*, 326 F.3d 560 (4th Cir. 2003)(parents granted reimbursement for private ESY services)

³⁹ *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 163–65 (1803) (quoting Blackstone's Commentaries); see also *Kendall v. United States*, 37 U.S. 524, 624 (1838) (referring to a right without a remedy as "a monstrous absurdity").

necessary evidence to calculate either a "make whole" or an hour-for-hour compensatory education award.

Accordingly, the claim for compensatory education is dismissed without prejudice, preserving the Parent's right to refile. The dismissal ensures that any relief and all relief ultimately granted is individualized, equitable, and fact-specific. Accordingly, I now find that the issue of appropriate relief must be bifurcated from the FAPE analysis to ensure "every right has a remedy." The Student's claim for compensatory education shall proceed as a separate matter, if necessary, in another action.

SUMMARY

The District's failures under IDEA and Section 504 reflect a systemic disregard for procedural safeguards and substantive obligations. The Student was denied timely evaluations, effective reasonable accommodations, and an appropriate IEP. These violations deprived the Student of meaningful educational access and necessitate corrective action to ensure compliance and address the harm caused.

FINAL ORDER AND DIRECTIONS FOR PROSPECTIVE RELIEF

And now, on December 1, 2024, upon consideration of the evidence and arguments presented, the following determinations, directions, and Order are made:

1. The District's Motion to Dismiss Parents' claims based on the statute of limitations is **DENIED**.
2. The Parents' claims regarding child-find violations and denial of FAPE under IDEA and Section 504 are **GRANTED**.
3. The Parents' claims concerning the inadequacy of ESY services are **GRANTED**.
4. The Parents' discrimination claims are exhausted and **DISMISSED WITHOUT PREJUDICE**.

5. The Parents' request for compensatory education is **DISMISSED WITHOUT PREJUDICE**. The Parents retain the right to refile once they are prepared to present evidence regarding the scope and amount of compensatory education.
6. The District is hereby **ORDERED** to fund or provide the following prospective relief:
 - a. Within 20 calendar days, the District must convene an IEP meeting to develop an interim IEP, including specially designed instruction and a positive behavioral support plan, to ensure the Student's educational needs are met pending completion of all evaluations.
 - b. The District is **ORDERED** to fund an Independent Educational Evaluation (IEE). The IEE must be completed within 90 days of this **ORDER** and presented to the IEP team and the Parents within 100 days of the **ORDER**. The IEP team must reconvene upon receipt of the independent evaluation results to integrate the findings into the Student's IEP.
 - c. The District is further **ORDERED** to provide training to all relevant staff who either taught the Student or were listed as teachers of record on IDEA and Section 504 compliance, focusing on child-find obligations, evaluation procedures, procedural safeguards, and the District's responsibility to offer a FAPE. The training must be completed within 90 calendar days of this Order. Annual refresher training must be conducted for the next three years.

December 1, 2024

/s/Charles W. Jelley, Esq.
Special Education Hearing Officer